

**MULTI-ASSOCIATION GROUP OPPOSES TENTH RECOMMENDATION OF THE
SECTION 1423 ACQUISITION ADVISORY PANEL'S
SMALL BUSINESS WORKING GROUP**

On January 31, 2006, the 1423 Panel considered an initial set of recommendations offered by its Small Business Working Group. Based on the information published in advance of that session by the Panel, the Multi-Association Working Group testified before the Panel on January 31 and generally supported the preliminary recommendations of the Small Business Working Group.¹ At the February 23, 2006 meeting of the 1423 Panel, the Panel considered revisions to the recommendations previously presented by its Small Business Working Group. Of significance was the Working Group's presentation of an additional, tenth, recommendation, providing "a statutory and regulatory amendment granting agencies explicit discretion to limit competition for orders (against multiple award IDIQ contracts) to small businesses."

The Multi-Association Working Group has carefully reviewed the additional recommendation and supporting statements made by the Working Group but opposes its adoption.

As the Multi-Association Working Group noted in its support of the Small Business Working Group's initial (and even subsequently revised) recommendation to provide express statutory authorization for small business reservations of prime contract awards, we believe the agencies should have clear authority to establish, as part of its prime contract acquisition strategy, appropriate set-asides exclusively for small business participation. Several agencies, including the Department of Homeland Security, Department of Commerce and the General Services Administration, have successfully used this approach at the prime contract formation, with tacit support from the general acquisition community.

However, in our view, there are significantly different issues to take into account when seeking to apply that small business reservation to task order under awarded contracts. First, such an approach would significantly undercut the requirement for competition for task orders embodied in the existing "fair opportunity to compete" statutes. Secondly, set-asides at the task order level significantly changes the business assumptions about future opportunities for all companies when competing for the prime contract award. Finally, since the nature of specific task orders to be awarded in the future under a contract are typically not known at the time of award, there are no standards in existence (or in the 1423 Panel Working Group recommendations) for determining when it is appropriate to set aside work, and for whose benefit a set-aside should be created.

We welcome the opportunity to discuss this matter further with the Working Group and the Panel.

¹ See Multi-association Statement submitted to the Panel, available at <http://www.pscouncil.org/pdfs/1423Comments1-31-06.pdf>